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C O N F I D E N T I A L USUN NEW YORK 001083

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E.O. 12958: DECL: 11/28/2011
TAGS: [OFDP](#) [UN](#) [WE](#) [JA](#)
SUBJECT: UN REITERATES PLEA FOR U.S. HELP TO RELEASE
BLOCKED FUNDS

REF: A. GRESSER/WILCOX EMAIL--11/20/07
[1](#)B. LIGHT/WILCOX EMAIL--04/05/07
[1](#)C. USUN 2211 (2006)
[1](#)D. STATE 7911 (2006)
[1](#)E. USUN 255 (2006)

Classified By: Minister Counsellor Carolyn L. Willson, for
reasons 1.4(b) and (d).

[1](#)1. BEGIN SUMMARY: (C) On November 21, UN lawyers pressed USUN legal officers to respond to the UN's 2005 request for the United States to secure the release of funds the Japanese government donated to the UN in 2005 for humanitarian projects in the West Bank and Gaza Strip (refs). The Bank of New York has held the funds in a non-interest bearing account since July 2005, pursuant to a judgment entered against the Palestinian Authority and the PLO, and the UN lawyers said the Japanese government is pressuring the UN to ensure that the funds are recovered. USUN advised the UN that the Department continues to explore possible solutions, noted that the Department is working with the Palestinians to encourage the Palestinians to resolve litigation that has led U.S. banks to freeze Palestinian funds, and suggested that the UN contact the Palestinians' lawyers. UN lawyers pressed USUN for a speedy resolution of this ongoing irritant. END SUMMARY.

[1](#)2. (C) On November 21, UN Office of Legal Affairs and UN Development Program (UNDP) lawyers sought an update on U.S. efforts relating to the UN's request for assistance in releasing \$1,842,543.50 in humanitarian assistance funds. The Bank of New York has blocked the funds since 2005 pursuant to a U.S. judgment against the Palestinian Authority and the PLO. The UN lawyers thanked the United States for the extensive briefing the USUN and Department lawyers provided last April (ref B) and hoped the United States had achieved progress in resolving the matter. The UN lawyers also commented the Japanese government routinely presses the UN about the status of the funds and thought the Japanese had raised the issue bilaterally with the United States. They reiterated the UN's contention that the frozen funds belong to the UN and are inviolable, meaning that the Headquarters Agreement obligates the United States to intervene either with the Bank of New York or with the appropriate U.S. court to release them. The Bank of New York seized the funds in July 2005, after the UNDP, through its bank in Israel, tried to transfer the funds electronically to the Palestinian Economic Council for Development and Reconstruction (PECDAR).

[1](#)3. (C) USUN responded by stressing that the United States continues to explore ways to try to assist the UN, while noting that the complexity of the issue has precluded reaching a simple and quick solution. USUN asked the UN if it has given any more thought to bringing its own suit against the Bank of New York, noting the difficulty for the

United States to initiate action. USUN also stressed that while the UN has made its perspective clear, the United States does not necessarily agree that the funds remain UN property and thus are immune from seizure.

14. (C) USUN also noted that the Bank of New York has frozen other funds belonging to the Palestinian National Authority pursuant to U.S. litigation and said the United States has been exploring with the Palestinians ways to resolve that litigation. USUN suggested that the UN contact the Palestinians' lawyers at Miller & Chevalier.

15. (C) The UN lawyers responded that, as a matter of principle, the UN does not bring actions in national courts except in extraordinary and limited circumstances that do not apply in this case. They added that, because the UN remains responsible to the Japanese government to ensure that the funds are used for the humanitarian purposes for which Japan donated them, the funds remain UN property even after they have left the UN's possession. Just as the UN retains title to all goods it provides through its assistance programs, the UN retains "effective" ownership of funds it transfers, they said. Taking a different view could jeopardize the UN's ability to conduct operations worldwide, they contended. Therefore, they concluded that the UN's case is not comparable to the Palestinian cases and consulting with the Palestinians' lawyers might not be a relevant step for the UN pursue.

Khalilzad